

TITLE 12 – CHAPTER 36 – ARTICLE 9 SALES TAX

SECTION 12-36-920. Tax on accommodations for transients; reporting.

(A) A sales tax equal to seven percent is imposed on the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration. This tax does not apply where the facilities consist of less than six sleeping rooms, contained on the same premises, which is used as the individual's place of abode. The gross proceeds derived from the lease or rental of sleeping accommodations supplied to the same person for a period of ninety continuous days are not considered proceeds from transients. The tax imposed by this subsection (A) does not apply to additional guest charges as defined in subsection (B).

(B) A sales tax of five percent is imposed on additional guest charges at any place where rooms, lodgings, or accommodations are furnished to transients for a consideration, unless otherwise taxed under this chapter. The term additional guest charges includes, but is not limited to:

- (1) room service;
- (2) amenities;
- (3) entertainment;
- (4) special items in promotional tourist packages;
- (5) laundering and dry cleaning services;
- (6) in-room movies;
- (7) telephone charges;
- (8) rentals of meeting rooms; and
- (9) other guest services.

(C) Real estate agents, brokers, corporations, or listing services required to remit taxes under this section shall notify the department if rental property, previously listed by them, is dropped from their listings.

(D) When any business is subject to the sales tax on accommodations and the business has more than one place of business in the State, the licensee shall report separately in his sales tax return the total gross proceeds derived from business done within and without the corporate limits of municipalities. A taxpayer who owns or manages rental units in more than one county or municipality shall report separately in his sales tax return the total gross proceeds from business done in each county or municipality.

(E) The taxes imposed by this section are imposed on every person engaged or continuing within this State in the business of furnishing accommodations to transients for consideration.

TITLE 12 – CHAPTER 36 – ARTICLE 25
GENERAL PROVISIONS (STATE SALES & ACCOMMODATIONS TAX)

SECTION 12-36-2630. Seven percent sales tax on accommodations for transients composed of three components.

The tax imposed by Section 12-36-920(A) is composed of three taxes as follows:

- (1) a four percent tax which must be credited as provided in Section 59-21-1010(A); and
- (2) a one percent tax, which must be credited as provided in Section 59-21-1010(B). The one percent tax specified in this item (2) does not apply to sales to an individual eighty-five years of age or older purchasing tangible personal property for his own personal use, if at the time of sale, the individual requests the one percent exclusion from tax and provides the retailer with proof of age; and
- (3) a two percent local accommodations tax, which must be credited to the political subdivisions of the State in accordance with Chapter 4 of Title 6. The proceeds of this tax, less the department's actual increase in the cost of administration and the expenses of the Tourism Expenditure Review Committee established pursuant to Section 6-4-35, must be remitted quarterly to the municipality or the county in which it is collected. The two percent tax provided by this item may not be increased except upon approval of two-thirds of the membership of each House of the General Assembly. However, the tax may be decreased or repealed by a simple majority of the membership of each House of the General Assembly.

The tax imposed by Section 12-36-920 must be billed and paid in a single item listed as tax, without itemizing the taxes referred to in this section.

TITLE 6 – CHAPTER 4
ALLOCATION OF STATE ACCOMMODATIONS TAX REVENUES

SECTION 6-4-5. Definitions.

As used in this chapter:

- (1) "County area" means a county and municipalities within the geographical boundaries of the county.
- (2) "Cultural", as it applies to members of advisory committees in Section 6-4-25, means persons actively involved and familiar with the cultural community of the area including, but not limited to, the arts, historical preservation, museums, and festivals.
- (3) "Hospitality", as it applies to members of the committees in item (2), means persons directly involved in the service segment of the travel and tourism industry including, but not limited to, businesses that primarily serve visitors such as lodging facilities, restaurants, attractions, recreational amenities, transportation facilities and services, and travel information and promotion entities.
- (4) "Travel" and "tourism" mean the action and activities of people taking trips outside their home communities for any purpose, except daily commuting to and from work.

SECTION 6-4-10. Allocation to general fund; special fund for tourism; management and use of special fund.

The funds received by a municipality or a county in county areas collecting more than fifty thousand dollars from the local accommodations tax provided in Section 12-36-2630(3) must be allocated in the following manner:

- (1) The first twenty-five thousand dollars must be allocated to the general fund of the municipality or county and is exempt from all other requirements of this chapter.
- (2) Five percent of the balance must be allocated to the general fund of the municipality or county and is exempt from all other requirements of this chapter.
- (3) Thirty percent of the balance must be allocated to a special fund and used **only** for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity. To manage and direct the expenditure of these tourism promotion funds, the municipality or county shall select one or more organizations, such as a chamber of commerce, visitor and convention bureau, or regional tourism commission, which has an existing, ongoing tourist promotion program. If no organization exists, the municipality or county shall create an organization with the same membership standard in Section 6-4-25. To be eligible for selection the organization must be organized as a nonprofit organization and shall demonstrate to the municipality or county that it has an existing, ongoing tourism promotion program or that it can develop an effective tourism promotion program. Immediately upon an allocation to the special fund, a municipality or county shall distribute the tourism promotion funds to the organizations selected or created to receive them. Before the beginning of each fiscal year, an organization receiving funds from the accommodations tax from a municipality or county shall submit for approval a budget of planned expenditures. At the end of each fiscal year, an organization receiving funds shall render an accounting of the expenditure to the municipality or county which distributed them. **Fees allocated pursuant to this subsection must not be used to pledge as security for bonds and to retire bonds. Also, fees allocated pursuant to this subsection must be allocated to a special fund and used only for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity, and not used to pledge as security for bonds and to retire bonds.** *

** Text printed in italic, boldface indicates sections amended by Act 284 of 2010.*

(4)(a) The remaining balance plus earned interest received by a municipality or county must be allocated to a special fund and used for tourism-related expenditures. This section does not prohibit a municipality or county from using accommodations tax general fund revenues for tourism-related expenditures.

(b) The funds received by a county or municipality which has a high concentration of tourism activity may be used to provide additional county and municipal services including, but not limited to, law enforcement, traffic control, public facilities, and highway and street maintenance, as well as the continual promotion of tourism. The funds must not be used as an additional source of revenue to provide services normally provided by the county or municipality but to promote tourism and enlarge its economic benefits through advertising, promotion, and providing those facilities and services which enhance the ability of the county or municipality to attract and provide for tourists.

"Tourism-related expenditures" include:

1. advertising and promotion of tourism so as to develop and increase tourist attendance through the generation of publicity;
2. promotion of the arts and cultural events;
3. construction, maintenance, and operation of facilities for civic and cultural activities including construction and maintenance of access and other nearby roads and utilities for the facilities;
4. the criminal justice system, law enforcement, fire protection, solid waste collection, and health facilities when required to serve tourists and tourist facilities. This is based on the estimated percentage of costs directly attributed to tourists;
5. public facilities such as restrooms, dressing rooms, parks, and parking lots;
6. tourist shuttle transportation;
7. control and repair of waterfront erosion;
8. operating visitor information centers.

(c) Allocations to the special fund must be spent by the municipality or county within two years of receipt. If the allocations are not spent within two years, the municipality or county is subject to the provisions of Section 6-4-30(6). However, the time limit may be extended upon the recommendation of the county or municipality and approval of the South Carolina Accommodations Tax Oversight Committee in Section 6-4-30. An extension must include provisions that funds be committed for a specific project or program.

(d) In the expenditure of these funds, counties and municipalities are required to promote tourism and make tourism-related expenditures primarily in the geographical areas of the county or municipality in which the proceeds of the tax are collected where it is practical.

SECTION 6-4-15. Use of revenues to finance bonds.

A municipality or county may issue bonds, enter into other financial obligations, or create reserves to secure obligations to finance all or a portion of the cost of constructing facilities for civic activities, the arts, and cultural events which fulfill the purpose of this chapter. The annual debt service of indebtedness incurred to finance the facilities or lease payments for the use of the facilities may be provided from the funds received by a municipality or county from the accommodations tax in an amount not to exceed the amount received by the municipality or county after deduction of the accommodations tax funds dedicated to the general fund and the advertising and promotion fund. However, none of the revenue received by a municipality or county from the accommodations tax may be used to retire outstanding bonded

indebtedness unless accommodations tax revenue was obligated for that purpose when the debt was incurred.

SECTION 6-4-20. Administration account established; State Treasurer's duties; distribution of account revenues; exceptions to tourism spending mandate.

(A) An accommodations tax account is created to be administered by the State Treasurer.

(B) At the end of each fiscal year and before August first a percentage, to be determined by the State Treasurer, must be withheld from those county areas collecting four hundred thousand dollars or more from that amount which exceeds four hundred thousand dollars from the tax authorized by Section 12-36-2630(3), and that amount must be distributed to assure that each county area receives a minimum of fifty thousand dollars. The amount withheld from those county areas collecting four hundred thousand dollars or more must be apportioned among the municipalities and the county in the same proportion as those units received quarterly remittances in Section 12-36-2630(3). If the total statewide collections from the local accommodations tax exceeds the statewide collections for the preceding fiscal year then this fifty thousand dollar figure must be increased by a percentage equal to seventy-five percent of the statewide percentage increase in statewide collections for the preceding fiscal year. The difference between the fifty thousand dollars minimum and the actual collections within a county area must be distributed to the eligible units within the county area based on population as determined by the most recent United States census.

(C) At the end of each fiscal year and before August first, the State Treasurer shall distribute to each county area collecting more than fifty thousand dollars but less than four hundred thousand dollars an additional fifteen thousand dollars. If the total statewide collections from the local accommodations tax exceed the statewide collections for the preceding fiscal year, this fifteen thousand dollar figure must be increased by a percentage equal to seventy-five percent of the statewide percentage increase in statewide collections for the preceding fiscal year. This amount must be distributed in the same manner as the fifty thousand dollars in subsection (B). The amount paid those qualified county areas under this subsection must be paid from the account created under this section.

(D) The amount withheld in excess must be distributed to the county areas whose collections exceed four hundred thousand dollars based on the ratio of the funds available to the collections by each county area.

(E) The accommodations tax funds received by a municipality or county in county areas collecting fifty thousand dollars or less are not subject to the tourism-related provisions of this chapter.

(F) Two percent of the local accommodations tax levied pursuant to Section 12-36-2630(3) must be remitted quarterly and equally to the eleven agencies designated by law and regional organizations to administer multi-county tourism programs in the state tourism regions as identified in the promotional publications of the South Carolina Department of Parks, Recreation and Tourism. This remittance is in addition to other funds that may be allocated to the agencies by local governments.

(G) The State Treasurer may correct misallocations to counties and municipalities from accommodations tax revenues by adjusting subsequent allocations, but these adjustments may be made only in allocations made in the same fiscal year as the misallocation.

SECTION 6-4-25. Advisory Committee; guidelines for expenditures; annual reports; reports to Accommodations Tax Oversight Committee.

(A) A municipality or county receiving more than fifty thousand dollars in revenue from the accommodations tax in county areas collecting more than fifty thousand dollars shall appoint an advisory committee to make recommendations on the expenditure of revenue generated from the accommodations tax. The advisory committee consists of seven members with a majority being selected from the hospitality industry of the municipality or county receiving the revenue. At least two of the hospitality industry members must be from the lodging industry where applicable. One member shall

represent the cultural organizations of the municipality or county receiving the revenue. For county advisory committees, members shall represent the geographic area where the majority of the revenue is derived. However, if a county which receives more in distributions of accommodations taxes than it collects in accommodations taxes, the membership of its advisory committee must be representative of all areas of the county with a majority of the membership coming from no one area.

(B) A municipality or county and its advisory committee shall adopt guidelines to fit the needs and time schedules of the area. The guidelines must include the requirements for applications for funds from the special fund used for tourism-related expenditures. A recipient's application must be reviewed by an advisory committee before it receives funds from a county or municipality.

(C) Advisory committees shall submit written recommendations to a municipality or county at least once annually. The recommendations must be considered by the municipality or county in conjunction with the requirements of this chapter.

(D) Municipalities and counties annually shall submit to the South Carolina Accommodations Tax Oversight Committee:

(1) end-of-the-year report detailing advisory committee accommodations tax recommendations;

(2) municipality's or county's action following the recommendations;

(3) list of how funds from the accommodations tax are spent, except for the first twenty-five thousand dollars and five percent of the balance in Section 6-4-10(2) allocated to the general fund. The list is due before October first and must include funds received and dispersed during the previous fiscal year;

(4) list of advisory committee members noting the chairman, business address if applicable, and representation of the hospitality industry including the lodging industry and cultural interests.

(E) The regional tourism agencies in Section 6-4-20 annually shall submit reports on their budgets and annual expenditure of accommodations tax funds pursuant to this chapter to the Accommodations Tax Oversight Committee.

SECTION 6-4-30. Repealed by 2003 Act No. 96, Section 3.MM, eff June 18, 2003.

SECTION 6-4-35. Tourism Expenditure Review Committee.

(A) There is established the Tourism Expenditure Review Committee consisting of eleven members as follows:

(1) one member appointed by the Speaker of the House;

(2) one member appointed by the President Pro Tempore of the Senate;

(3) the Director of the South Carolina Department of Parks, Recreation and Tourism, or his designee, ex officio;

(4) eight members appointed by the Governor as follows:

(a) one member on the recommendation of the South Carolina Association of Tourism Regions;

(b) one member on the recommendation of the South Carolina Association of Convention and Visitors Bureaus;

- (c) one member on the recommendation of the South Carolina Travel and Tourism Coalition;
- (d) one member on the recommendation of the Municipal Association of South Carolina;
- (e) one member on the recommendation of the South Carolina Association of Counties;
- (f) one member on the recommendation of the Hospitality Association of South Carolina;
- (g) one member on the recommendation of the South Carolina Arts Commission; and
- (h) one member at large.

Appointed members shall serve for terms of four years and until their successors are appointed and qualify, except that of those first appointed by the Governor, four shall serve for a term of two years and the term must be noted on the appointment. Regardless of the date of appointment, all terms expire July first of the applicable year. Members shall serve without compensation but may receive the mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions. Vacancies must be filled in the manner of original appointment for the unexpired portion of the term.

(B)(1)(a) The Tourism Expenditure Review Committee shall serve as the oversight authority on all questionable tourism-related expenditures and to that end, all reports filed pursuant to Section 6-4-25(D)(3) must be forwarded to the committee for review to determine if they are in compliance with this chapter. The municipality or county must be notified if an expenditure is questioned, and the committee may consider any further supporting information the municipality or county may provide. If the committee finds an expenditure to be in noncompliance, it shall certify the noncompliance to the State Treasurer, who shall withhold the amount of the expenditure found in noncompliance from subsequent distributions in accommodations tax revenue otherwise due the municipality or county. An appeal from an action of the committee under this subitem lies with the Administrative Law Judge Division.

(b) If the committee determines that a municipality or county has failed to file the reports required pursuant to Section 6-4-25(D)(3), it may impose a fee of five hundred dollars a month or part of a month for each month the report is not filed, but not more than five thousand dollars. The committee shall certify the penalty to the State Treasurer, who shall withhold the amount of the penalty from subsequent distributions otherwise due the municipality or county. An appeal from an action of the committee under this subitem lies with the Administrative Law Judge Division.

(c) Allocations withheld must be reallocated proportionately to all other recipients.

(2) The committee has jurisdiction to investigate and research facts on written complaints submitted to it with regard to the appropriate tourism-related expenditures and resolve these complaints as provided in item (1) of this subsection.

(3) The committee shall forward copies of information submitted by the local governments and regional tourism agencies pursuant to Section 6-4-25 arising under the tourism provisions of this chapter to the Department of Parks, Recreation and Tourism, which shall publish an annual report on the information submitted.

TITLE 6 – CHAPTER 1 – ARTICLE 5 LOCAL ACCOMMODATIONS TAX

SECTION 6-1-500. Short title.

This article may be cited as the "Local Accommodations Tax Act".

SECTION 6-1-510. Definitions.

As used in this article:

(1) "Local accommodations tax" means a tax on the gross proceeds derived from the rental or charges for accommodations furnished to transients as provided in Section 12-36-920(A) and which is imposed on every person engaged or continuing within the jurisdiction of the imposing local governmental body in the business of furnishing accommodations to transients for consideration.

(2) "Local governing body" means the governing body of a county or municipality.

(3) "Positive majority" means a vote for adoption by the majority of the members of the entire governing body, whether present or not. However, if there is a vacancy in the membership of the governing body, a positive majority vote of the entire governing body as constituted on the date of the final vote on the imposition is required.

SECTION 6-1-520. Imposition of local accommodations tax.

(A) A local governing body may impose, by ordinance, a local accommodations tax, not to exceed three percent. However, an ordinance imposing the local accommodations tax must be adopted by a positive majority vote. The governing body of a county may not impose a local accommodations tax in excess of one and one-half percent within the boundaries of a municipality without the consent, by resolution, of the appropriate municipal governing body.

(B) All proceeds from a local accommodations tax must be kept in a separate fund segregated from the imposing entity's general fund. All interest generated by the local accommodations tax fund must be credited to the local accommodations tax fund.

SECTION 6-1-530. Use of revenue from local accommodations tax.

(A) The revenue generated by the local accommodations tax must be used exclusively for the following purposes:

- (1) tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;
- (2) tourism-related cultural, recreational, or historic facilities;
- (3) beach access, renourishment, or other tourism-related lands and water access;
- (4) highways, roads, streets, and bridges providing access to tourist destinations;
- (5) advertisements and promotions related to tourism development; or
- (6) water and sewer infrastructure to serve tourism-related demand.

(B)(1) In a county in which at least nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, the revenues of the local accommodations tax authorized in this

article may also be used for the operation and maintenance of those items provided in (A)(1) through (6) including police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to those facilities.

~~*(2) In a county in which less than nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, an amount not to exceed twenty percent of the revenue in the preceding fiscal year of the local accommodations tax authorized pursuant to this article may be used for the additional purposes provided in item (1) of this subsection.*~~

*(2) In a county in which less than nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, an amount not to exceed fifty percent of the revenue in the preceding fiscal year of the local accommodations tax authorized pursuant to this article may be used for the additional purposes provided in item (1) of this subsection. **

** Text printed in italic, boldface indicates sections amended by Act 210 of 2010 (SC Economic Development Competitiveness Act).*

SECTION 6-1-540. Cumulative rate of local accommodations tax.

The cumulative rate of county and municipal local accommodations taxes for any portion of the county area may not exceed three percent, unless the cumulative total of such taxes were in excess of three percent prior to December 31, 1996, in which case the cumulative rate may not exceed the rate that was imposed as of December 31, 1996.

SECTION 6-1-550. Local accommodations tax revenue upon annexation.

In an area of the county where the county has imposed a local accommodations tax that is annexed by a municipality, the municipality must receive only that portion of the revenue generated in excess of the county local accommodations tax revenue for the previous twelve months in the area annexed.

SECTION 6-1-560. Real estate agents required to report when rental property listing dropped.

Real estate agents, brokers, corporations, or listing services required to remit taxes under this section must notify the appropriate local governmental entity or entities if rental property, previously listed by them, is dropped from their listings.

SECTION 6-1-570. Remitting tax to local governing body; frequency determined by estimated average amounts.

The tax provided for in this article must be remitted to the local governing body on a monthly basis when the estimated amount of average tax is more than fifty dollars a month, on a quarterly basis when the estimated amount of average tax is twenty-five dollars to fifty dollars a month, and on an annual basis when the estimated amount of average tax is less than twenty-five dollars a month.

TITLE 6 – CHAPTER 1 – ARTICLE 7 LOCAL HOSPITALITY TAX

SECTION 6-1-700. Short title.

This article may be cited as the "Local Hospitality Tax Act".

SECTION 6-1-710. Definitions.

As used in the article:

- (1) "Local governing body" means the governing body of a county or municipality.
- (2) "Local hospitality tax" is a tax on the sales of prepared meals and beverages sold in establishments or sales of prepared meals and beverages sold in establishments licensed for on-premises consumption of alcoholic beverages, beer, or wine.
- (3) "Positive majority" means a vote for adoption by the majority of the members of the entire governing body, whether present or not. However, if there is a vacancy in the membership of the governing body, a positive majority vote of the entire governing body as constituted on the date of the final vote on the imposition is required.

SECTION 6-1-720. Imposition of local hospitality tax.

(A) A local governing body may impose, by ordinance, a local hospitality tax not to exceed two percent of the charges for food and beverages. However, an ordinance imposing the local hospitality tax must be adopted by a positive majority vote. The governing body of a county may not impose a local hospitality tax in excess of one percent within the boundaries of a municipality without the consent, by resolution, of the appropriate municipal governing body.

(B) All proceeds from a local hospitality tax must be kept in a separate fund segregated from the imposing entity's general fund. All interest generated by the local hospitality tax fund must be credited to the local hospitality tax fund.

SECTION 6-1-730. Use of revenue from local hospitality tax.

(A) The revenue generated by the hospitality tax must be used exclusively for the following purposes:

- (1) tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;
- (2) tourism-related cultural, recreational, or historic facilities;
- (3) beach access and renourishment;
- (4) highways, roads, streets, and bridges providing access to tourist destinations;
- (5) advertisements and promotions related to tourism development; or
- (6) water and sewer infrastructure to serve tourism-related demand.

(B)(1) In a county in which at least nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, the revenues of the hospitality tax authorized in this article may

be used for the operation and maintenance of those items provided in (A)(1) through (6) including police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to those facilities.

~~*(2) In a county in which less than nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, an amount not to exceed twenty percent of the revenue in the preceding fiscal year of the local hospitality tax authorized pursuant to this article may be used for the additional purposes provided in item (1) of this subsection.*~~

*(2) In a county in which less than nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, an amount not to exceed fifty percent of the revenue in the preceding fiscal year of the local hospitality tax authorized pursuant to this article may be used for the additional purposes provided in item (1) of this subsection. **

** Text printed in italic, boldface indicates sections amended by Act 210 of 2010 (SC Economic Development Competitiveness Act).*

SECTION 6-1-740. Cumulative rate of local hospitality tax.

The cumulative rate of county and municipal hospitality taxes for any portion of the county area may not exceed two percent, unless the cumulative total of such taxes was in excess of two percent or were authorized to be in excess of two percent prior to December 31, 1996, in which case the cumulative rate may not exceed the rate that was imposed or adopted as of December 31, 1996.

SECTION 6-1-750. Local hospitality tax revenue upon annexation.

In an area of the county where the county has imposed a local hospitality tax that is annexed by a municipality, the municipality must receive only that portion of the revenue generated in excess of the county local hospitality tax revenue for the previous twelve months in the area annexed.

SECTION 6-1-760. Ordinances prior to March 15, 1997; calculation; revenue.

*(A) With respect to capital projects and as used in this section, 'tourist' means a person who does not reside in but rather enters temporarily, for reasons of recreation or leisure, the jurisdictional boundaries of a municipality for a municipal project or the immediate area of the project for a county project. ***

*(B) Notwithstanding any provision of this article, any ordinance enacted by county or municipality prior to March 15, 1997, imposing an accommodations fee which does not exceed the three percent maximum cumulative rate prescribed in Section 6-1-540, is calculated upon a base consistent with Section 6-1-510(1), and the revenue from which is used for the purposes enumerated in Section 6-1-530, remains authorized and effective after the effective date of this section. ~~and the enacting Any~~ county or municipality is authorized to issue bonds, pursuant to Article X, Section 14(10) of the Constitution of this State, utilizing the procedures of Section 4-29-68, **Section 6-17-10 and related sections, or Section 6-21-10 and related sections**, for the purposes enumerated in Section 6-1-530, **to pledge as security for such bonds** and to retire such ~~debt using bonds with~~ the proceeds of ~~such an accommodations fee ordinance accommodations fees imposed under Article 5 of this chapter, hospitality fees imposed under this chapter, state accommodations fees allocated pursuant to Section 6-4-10(1), (2), and (4), or any combination thereof, and the pledge of such other nontax revenues as may be available for those purposes **for capital projects used to attract and support tourists.** **~~*

*** Text printed in italic, boldface indicates sections amended by Act 284 of 2010.*

SECTION 6-1-770. Remitting tax to local governing body; frequency determined by estimated average amounts.

The tax provided for in this article must be remitted to the local governing body on a monthly basis when the estimated amount of average tax is more than fifty dollars a month, on a quarterly basis when the estimated amount of average tax is twenty-five dollars to fifty dollars a month, and on an annual basis when the estimated amount of average tax is less than twenty-five dollars a month.

TITLE 4 – CHAPTER 10 – ARTICLE 9
LOCAL OPTION TOURISM DEVELOPMENT FEE

SECTION 4-10-910. Citation of article.

This article may be cited as the "Local Option Tourism Development Fee Act".

SECTION 4-10-920. Definitions.

For purposes of this article:

(1) "County" means a county in which revenues of the state accommodations tax imposed pursuant to Section 12-36-920 have aggregated at least fourteen million dollars in a fiscal year.

(2) "Fee" means the local option tourism development fee allowed to be imposed as provided in this article.

(3) "Municipality" means a municipal corporation created pursuant to Chapter 1, Title 5 or a municipal government as the use of the term dictates, located in a county as defined by subsection (1).

SECTION 4-10-930. Imposition of fee; referendum and ballot; recision; filing results with Department of Revenue.

(A) Subject to the requirements of this article, a municipality may impose in the municipality a fee not to exceed one percent for not more than ten years for the purposes provided in Section 4-10-970 by:

(1) an ordinance adopted by a supermajority of the municipal council which must be at least two-thirds of the members of a municipal council; or

(2) the approval of a majority of qualified electors voting in a referendum held pursuant to this section called by a majority of the members of the municipal council.

(B)(1) Upon the adoption of a resolution calling for a referendum by the municipal council, the municipal election commission in each municipality shall conduct a referendum on the first Tuesday ninety days after the adoption of the resolution on the question of implementing the fee within the municipality. The state election laws apply to the referendum, mutatis mutandis. The municipal election commission shall publish the results of the referendum and certify them to the municipal council. The fee must not be imposed in the municipality, unless a majority of the qualified electors voting in the referendum approve the question.

(2) The ballot must read substantially as follows:

"Must a one percent fee on the gross proceeds of sales or sales price of all amounts subject to the sales and use tax imposed pursuant to Chapter 36, Title 12, but not the gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 and the gross proceeds of sales of unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons, be levied in _____ for the purpose of tourism advertisement and promotion directed at non-South Carolina residents?

Yes []

No []"

(3) If the question is not approved at the initial referendum, the municipal council may call for another referendum on the question. However, following the initial referendum, a referendum for this purpose must not be held more often than once in a twenty-four month period on the Tuesday following the first Monday in November in even-numbered years.

(4) Two weeks before the referendum, the municipal council shall publish in a newspaper of general circulation within the jurisdiction a description of and the uses for the fee.

(C)(1) Upon the adoption of a resolution calling for a referendum to rescind the fee by the municipal council, the municipal election commission shall conduct a referendum in the same manner provided in subsection (B) on the question of rescinding the fee imposed by this section. The state election laws apply to the referendum, mutatis mutandis. The municipal election commission shall publish the results of the referendum and certify them to the municipal council. The fee must be rescinded in the municipality upon the certification of the results if a majority of the qualified electors voting in the referendum vote in favor of rescinding the fee.

(2) The ballot must read substantially as follows:

"Must the one percent local fee levied in _____ pursuant to Section 4-10-930 of the 1976 Code be rescinded?

Yes []

No []"

(3) A referendum for rescission of this fee may not be held earlier than two years after the fee has been levied in the municipality. If a majority of the qualified electors voting in the rescission referendum vote against rescinding the fee, no further rescission referendums may be held for a period of twenty-four months on the first Tuesday following the first Monday in November of even-numbered years. If a majority of the qualified electors vote in favor of rescinding the tax, the fee may not be reimposed in the municipality for a period of two years.

(D) The imposition date of the fee allowed pursuant to this article is the first day of the first month beginning more than sixty days after the municipality files a certified copy of the imposition ordinance or the certification of the results of the referendum with the South Carolina Department of Revenue.

(E) Once a certified copy of the ordinance or referendum results is filed with the Department of Revenue, for the period of imposition provided in that ordinance or referendum, the department may not accept as filed any additional ordinance or referendum results from the municipality that in any way relates to the fee allowed to be imposed pursuant to this chapter except an ordinance or the referendum results reducing or repealing the existing fee. The department shall accept for filing a certified copy of an ordinance or referendum results reducing or repealing the fee and that reduction or repeal applies in the manner provided in Section 4-10-930(D) for imposition.

SECTION 4-10-940. Allowable fee; administration and collection.

(A) The fee allowed by this article is an amount not to exceed one percent of the gross proceeds of sales or sales price of all amounts subject to the sales and use tax imposed pursuant to Chapter 36, Title 12.

(B) The fee imposed pursuant to this article must be administered and collected by the Department of Revenue in the same manner that sales and use taxes are collected. The department may prescribe amounts that may be added to the sales price because of the fee.

(C) The fee authorized by this article is in addition to all other local sales and use taxes and applies to the gross proceeds of sales in the applicable area that is subject to the tax imposed by Chapter 36, Title 12

and the enforcement provisions of Chapter 54, Title 12. The gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 and the gross proceeds of sales of unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons are exempt from the fee imposed by this article. The fee imposed by this article also applies to tangible personal property subject to the use tax in Article 13, Chapter 36, Title 12.

(D) The provisions of subsections (C), (D), (E), (F), and (G) of Section 4-10-350 apply for fee payors and the fee allowed to be imposed pursuant to this article, including further identification of point of sale jurisdictions, mutatis mutandis.

(E) The revenues of the fee imposed pursuant to this article must be remitted to the Department of Revenue and placed on deposit with the State Treasurer and credited to a fund separate and distinct from the general fund of the State. After deducting the amount of any refunds made and costs to the Department of Revenue of administering the tax, not to exceed one percent of the revenues, the State Treasurer shall distribute the revenues and interest quarterly based on point of collection to the treasurer of the municipality in which the fee is imposed and the revenues must be used only for the purposes provided in Section 4-10-970. The State Treasurer may correct misallocations by adjusting subsequent distributions, but these adjustments must be made in the same fiscal year as the misallocations. However, allocations made as a result of municipal code errors must be corrected prospectively.

SECTION 4-10-960. Information for purpose of calculating distributions and estimating revenues

The Department of Revenue shall furnish data to the State Treasurer and to the municipal treasurers receiving revenues for the purpose of calculating distributions and estimating revenues. The information that must be supplied to municipalities upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability by taxpayers. Information about a specific taxpayer is considered confidential and is governed by the provisions of Section 12-54-240. A person violating this section is subject to the penalties provided in Section 12-54-240.

SECTION 4-10-970. Use of revenues; designation of receiving organizations and regional tourism promoters.

(A)(1) Except as provided in item (2) of this subsection, all revenues and interest of the fee must be used exclusively for tourism advertisement and promotion directed at non-South Carolina residents.

~~**(2) Revenues received in the third and subsequent years of imposition must be used as provided in item (1) except that up to twenty percent may be used for property tax rollbacks on owner-occupied real property or tourism-related capital projects, or a combination of these purposes, but no less than twenty percent of these funds must be used for property tax rollback on owner-occupied property. No capital project is eligible to be funded directly or indirectly with fee revenues unless the project consists of construction of new or renovation of existing tourism-related facilities intended to grow or maintain the overnight tourism market in the city.**~~

(2) Revenues received in the second and subsequent years of imposition must be used as provided in item (1) except that up to twenty percent may be retained by the municipality and used as follows:

(a) at least twenty percent of the amount retained must be used to provide a credit against the property tax liability imposed by the municipality on parcels of owner-occupied residential property located in the municipality classified for property taxes pursuant to Section 12-43-220(c). The credit is an amount determined by multiplying the appraised value of the residence by a fraction in which the numerator is the total estimated revenue retained by the municipality allocated to the credit and the denominator is the total of the appraised value of all such property in the municipality as of January first of the applicable property tax year. For purposes of this calculation, appraised value is as defined in Section 12-37-3130(3) reduced by the limitation provided pursuant to Section 12-37-3140(B);

(b) the balance for tourism-related capital projects. No capital project is eligible to be funded directly or indirectly with fee revenues unless the project consists of construction of new or renovation of existing tourism-related facilities intended to grow or maintain the overnight tourism market in the municipality; and

(c) the credit allowed pursuant to subitem (a) of this item applies after all other credits have been applied. To the extent that the credit amount allowed by this item exceeds the municipal property tax liability, the excess credit is added to the amount set aside for use as provided in subitem (b) of this item. If no projects are funded pursuant to subitem (b) of this item, the excess credit must be used to provide a credit against the municipal tax liability of all taxable property in the municipality ineligible for the credit allowed by subitem (a) of this item. This credit must be calculated in the same manner as the credit provided in subitem (a), mutatis mutandis. *

**** Text printed in italic, boldface indicates sections amended by Act 130 of 2010***

(B) The municipality shall designate no more than two organizations within the county to receive the revenues and interest and conduct the promotional activities provided pursuant to subsection (A)(1). These organizations must be nonprofit destination marketing organizations representing a broad cross-section of tourism interests within the county. In addition, before an organization may be designated, it must certify to the imposing municipality that:

- (1) its promotional and advertising programs are based on research based outcomes;
- (2) the organization has a proven record of success in creating new and repeat visitation to the county;
- (3) it has sufficient resources to create, plan, implement, and measure the marketing program generated by the fee revenues;
- (4) it will use the funds only for the purposes provided pursuant to subsection (B)(1) of this section.

(C) Municipalities located in the same county that are imposing a fee pursuant to this article jointly may designate a regional tourism promoter located in the county to jointly promote tourism in the municipalities imposing the fee. The regional tourism promoter must be designated in the manner provided in subsection (B) and only may promote tourism to non-South Carolina residents.

Reporting – added an appropriately lettered subsection at the end to read:

() At least quarterly, an organization designated by the municipality pursuant to this section shall provide a report to the municipality that includes identification of revenues received from the Local Option Tourism Development Fee during the previous quarter, as well as expenditures made from those funds during the previous quarter. Each report also shall be posted by the organization on its website. *

**** Text printed in italic, boldface indicates sections amended by Act 130 of 2010***

TITLE 12 – CHAPTER 21 – ARTICLE 17

ADMISSIONS TAX

SECTION 12-21-2410. Definitions.

For the purpose of this article and unless otherwise required by the context:

- (1) The word "admission" means the right or privilege to enter into or use a place or location;
- (2) The word "place" means any definite enclosure or location; and
- (3) The word "person" means individual, partnership, corporation, association, or organization of any kind whatsoever.

SECTION 12-21-2420. Imposition of tax; rate; exemptions; payment, collection, and remittance; disposition of revenues.

There must be levied, assessed, collected, and paid upon paid admissions to places of amusement within this State a license tax of five percent. The license tax may be listed separately from the cost of admission on an admission ticket. However, no tax may be charged or collected:

- (1) On account of any stage play or any pageant in which wholly local or nonprofessional talent or players are used;
- (2) On admissions to athletic contests in which a junior American Legion athletic team is a participant unless the proceeds inure to any individual or player in the form of salary or otherwise;
- (3) On admissions to high school or grammar school games or on general gate admissions to the State Fair or any county or community fair;
- (4) On admissions charged by any eleemosynary and nonprofit corporation or organization organized exclusively for religious, charitable, scientific, or educational purposes; or the presentation of performing artists by an accredited college or university; provided, that the license tax herein levied and assessed shall be collected and paid upon all paid admissions to all athletic events of any institution of learning above the high school level; provided, however, that carnivals, circuses, and community fairs operated by eleemosynary or nonprofit corporations or organizations organized exclusively for religious, charitable, scientific, or educational purposes shall not be exempt from the assessment and collection of admissions tax on charges for admission for the use of or entrance to rides, places of amusement, shows, exhibits, and other carnival facilities, but not to include charges for general gate admissions except when the proceeds of any such carnival, circus, or community fair are donated to a hospital; provided, further, that no admission tax shall be charged or collected by reason of any charge made to any member of a nonprofit organization or corporation for the use of the facilities of the organization or corporation of which he is a member.
- (5) On admissions to nonprofit public bathing places;
- (6) On admissions to any hunting or shooting preserve;
- (7) On admissions to privately owned fish ponds or lakes; and
- (8) On admissions to circuses operated by eleemosynary, nonprofit corporations or organizations organized exclusively for religious, charitable, scientific, or educational purposes when the proceeds derived from admissions to the circuses shall be used exclusively for religious, charitable, scientific or educational purposes.

(9) On admissions to properties or attractions which have been named to the National Register of Historical Places.

(10) On admissions charged to classical music performances of a nonprofit or eleemosynary corporation organized and operated exclusively to promote classical music.

(11) On admissions to events other than those events enumerated in item (4) of this section, sponsored and operated exclusively by eleemosynary, nonprofit corporations or organizations organized exclusively for religious, charitable, scientific, civic, fraternal, or educational purposes when the net proceeds derived from admissions to the events shall be immediately donated to an organization operated exclusively for charitable purposes. The term "net proceeds" shall mean the portion of the gross admissions proceeds remaining after necessary expenses of the event have been paid. This item shall not apply to an event in which the above organizations receive a percentage of gross proceeds or a stated fixed sum for the use of its name in promoting the event.

(12) On admissions charged by nonprofit or eleemosynary community theater companies or community symphony orchestras, county and community arts councils and departments and other such companies engaged in promotion of the arts.

(13) On admissions to boats which charge a fee for pleasure fishing, excursion, sight-seeing and private charter.

(14) On admissions to a physical fitness center subject to the provisions of Chapter 79 of Title 44, the Physical Fitness Services Act, that provides only the following activities or facilities:

- (a) aerobics or calisthenics;
- (b) weightlifting equipment;
- (c) exercise equipment;
- (d) running tracks;
- (e) racquetball;
- (f) swimming pools for aerobics and lap swimming; and
- (g) other similar items approved by the department.

The entire admission charge of a physical fitness center which provides any other activity or facilities is subject to the tax imposed by this article. Physical fitness facilities or centers of the State of South Carolina and any of its political subdivisions which are exempt from the Physical Fitness Services Act, pursuant to Section 44-79-110 and, therefore, subject to the admissions tax under this article are nevertheless exempt from the admissions tax if they meet other requirements of this subsection.

(15) for entry into the pit area of NASCAR sanctioned motor speedways or racetracks for drivers, crew members, or car owners where a participation fee is charged these persons by NASCAR, or by the speedway or racetrack, where a charge to these persons is made on a per event basis for entry into the pit area, or where a combination of annual and per event charges to these persons is made for entry into the pit area.

The tax imposed by this section must be paid by the person or persons paying the admission price and must be collected and remitted to the South Carolina Department of Revenue by the person or persons collecting the admission price. The tax imposed by this section does not apply to:

(a) any amount separately stated on the ticket of admission for the repayment of money borrowed for the purpose of constructing an athletic stadium or field by any accredited college or university; or

(b) any amount of the charge for admission, whether or not separately stated, that is a fee or tax imposed by a political subdivision of the State. The revenue derived from the provisions of this section from fishing piers along the coast of South Carolina is allocated for use of the Commercial Fisheries Division of the Department of Natural Resources.

SECTION 12-21-2425. Motorsports entertainment complex admissions license tax exemption.

(A) In addition to the exemptions allowed from the admissions license tax imposed pursuant to Section 12-21-2420 of the 1976 Code, there is also exempt from that tax for ten years beginning July 1, 2008, one-half of the paid admissions to a motorsports entertainment complex.

(B) For purposes of the exemption allowed by this section, a motorsports entertainment complex means a motorsports facility, and its ancillary grounds and facilities, that satisfies all of the following:

(1) has at least sixty thousand fixed seats for race patrons;

(2) has at least three scheduled days of motorsports events, and events ancillary and incidental thereto, each calendar year that are sanctioned by a nationally or internationally recognized governing body of motorsports that establishes an annual schedule of motorsports events;

(3) engages in tourism promotion.

SECTION 12-21-2430. Certain ponds are not amusements.

No private pond shall be declared an amusement for tax purposes. But this section shall not apply to a pond stocked with fish from a State or Federal hatchery.

SECTION 12-21-2440. Application for license for place of amusement.

Before engaging in business every person operating a place of amusement within the State subject to the tax imposed by this article shall file with the department an application for a permanent license permitting him to engage in the business. The application for the license must be filed on blanks to be furnished by the department for that purpose and shall contain a statement including the name of the individual, the partnership, and each individual partner, or the corporation filing the application, the post-office address, and the nature of the business.

SECTION 12-21-2450. Issuance and display of license.

Upon receipt of an application for a license to operate a place of amusement as set forth in this article the department shall issue to the applicant a license permitting him to operate such place of amusement without cost to the applicant. Such license shall be displayed at all times at or in such place of amusement in some conspicuous place easily seen by the public.

SECTION 12-21-2460. Licenses shall not be transferable; separate licenses for each place.

No license issued permitting the operation of a place of amusement shall be transferable and any license issued to any person who shall afterwards retire from business shall be null and void. A separate license shall be required for each separate place of amusement.

SECTION 12-21-2470. Penalties for operation without license.

If any person operates a place of amusement for which a license is required without having first secured the license and posted it in accordance with the provisions of this article he shall be guilty of a misdemeanor and, upon conviction, fined not less than twenty dollars nor more than one hundred dollars or imprisoned not less than ten days nor more than thirty days. Each day that such business is operated shall constitute a separate offense.

SECTION 12-21-2490. Notice of license revocation and appeal therefrom.

The department shall mail written notice of the revocation of the license or shall otherwise serve written notice thereof upon the person affected thereby and within ten days after the mailing of such notice or of service otherwise upon the person whose license has been revoked such person may appeal from the decision of the department thereon to the court of common pleas in the county in which he is licensed to carry on the business. Within ten days after the service of notice of revocation of license as provided in this section, and not thereafter, the person feeling aggrieved thereby and desiring to appeal shall serve upon the department a written notice of intention to appeal to the court of common pleas and within thirty days after the service of the notice on the department he shall serve upon the department his exceptions or objections to the revocation of the license.

SECTION 12-21-2500. Hearing on appeal; supersedeas; costs and disbursements.

The hearing before the circuit judge shall be had upon the exceptions and objections so served upon the department and the case shall be disposed of as provided by law for appeals from the courts of magistrates. Or, if the circuit judge should decide that the ends of justice would be better attained, he may hear the full controversy de novo and render judgment in accordance with the law and facts. Serving notice of appeal upon the department shall not act as a supersedeas unless the appellant shall file with the department a good and sufficient bond to be approved by the department, conditioned upon the faithful observance of the requirements of this article and for the payment of any costs that may be lawfully taxed. And the costs and disbursements shall be the same as are provided in cases of appeals to the circuit courts from magistrates' courts.

SECTION 12-21-2520. Price of admission shall be printed on ticket.

No operator of a place of amusement shall sell or permit to be sold in his place of business any admission ticket without the price of admission printed thereon, nor shall he sell or permit to be sold any admission ticket at a price other than the price printed thereon. Provided, however, that upon written application to the department, the department may, in its discretion and for good cause, waive the requirements of this section.

SECTION 12-21-2530. Method of collecting tickets; exception for season or subscription tickets.

As each patron is admitted to a place the paid admissions to which are subject to the tax imposed by Section 12-21-2420, his ticket shall be collected and immediately torn in two parts, approximately through the center, one half given to the patron and the other half retained by the ticket taker. The provisions of this section shall not apply to season tickets or tickets for a series of admissions issued on account of subscription.

SECTION 12-21-2540. Penalties for use of altered or counterfeit tickets or re-use of tickets.

(A) It is unlawful for a person to:

(1) alter, restore, or otherwise prepare in any manner an admission ticket with intent to use or cause it to be used after it has already been used;

(2) knowingly or wilfully buy, sell, offer for sale, or give away a restored or altered ticket to a person;

(3) knowingly use a restored or altered ticket or have in his possession an altered or restored ticket, which has been previously used for the purpose for which it was originally intended; or

(4) prepare, buy, sell, offer for sale, or have in his possession a counterfeit ticket.

(B) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than two years, or both.

SECTION 12-21-2550. Tax payable monthly; failure to make correct return or failure to file.

(A) The license tax imposed by this article is due and payable in monthly installments on or before the twentieth day of each month. A person liable to the tax shall make a true and correct return to the department, in such form as it prescribes, showing the number and prices of admissions during the previous month, and remit the tax with the return.

(B) If a person fails to make a true and correct return or fails to file the return, the department shall make an estimate of the tax liability from the best information available, and issue a proposed assessment for the taxes, including penalties and interest.

SECTION 12-21-2575. Methods of accounting for admissions other than tickets.

In lieu of the issuance of tickets as provided for in this article, the department may authorize or approve other methods of accounting for paid admissions.